

Hon. Richard A. Jones
Hon. J. Richard Creatura

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

El PAPEL LLC, <i>et al.</i> ,)	
)	No. 2:20-cv-01323-RAJ-JRC
Plaintiffs,)	
)	PLAINTIFFS' AND DEFENDANT CITY
vs.)	OF SEATTLE'S SECOND NOTICE OF
)	SUPPLEMENTAL AUTHORITY AND
BRUCE HARREL, <i>et al.</i> ,)	JOINT STATEMENT RE <i>RHA</i> v. <i>CITY</i>
)	<i>OF SEATTLE</i>
Defendants.)	

On March 25, 2022, Plaintiffs and Defendant City of Seattle jointly submitted *Rental Housing Ass'n of Wash. v. City of Seattle*, No. 82469-4-I, 2022 WL 831450 (Wash. Ct. App. March 21, 2022) ("*RHA I*"), as supplemental authority in support of their briefing on their respective cross-motions for summary judgment. Dkt. # 164 (citing Dkt. Nos. 93, 103, 111, 120, 130, 132, 147, 151). *See* LCR 7(n).

In response to a motion for reconsideration, Division I of the Washington State Court of Appeals recently withdrew *RHA I* and issued a substitute opinion. *Rental Housing Ass'n of Wash. v. City of Seattle*, No. 82469-4-I, 2022 WL 2206107 (Wash. Ct. App. June 21, 2022) ("*RHA II*"). Plaintiffs and the City jointly submit *RHA II*, attached as Exhibit 1, as supplemental authority in support of the briefing cited in their notice regarding *RHA I*.

1 To avoid confusion, Plaintiffs and the City also jointly offer two points regarding *RHA II*,
 2 similar to the points they offered regarding *RHA I*. First, *RHA II* involves the City's six-month
 3 defense and repayment plan requirement, which are also at issue in this action. Unlike in this
 4 action, *RHA II* involves no challenge to the City's eviction moratorium, the final version of
 5 which the Seattle City Council adopted by Resolution 31938. Dkt. # 25-8.

6 Second, although *RHA II* reversed the trial court by ruling that a portion of the six-month
 7 defense violates procedural due process guarantees, that ruling does not moot this action's
 8 challenge to the six-month defense. *RHA II* is not final until an appellate court issues a mandate,
 9 *see* Wash. Rules App. Proc. 12.2, which must await any further motion for reconsideration or
 10 petition for review to the Washington Supreme Court. *See* Wash. Rules App. Proc. 12.5.

11 Moreover, the Seattle City Council amended the six-month defense to respond to *RHA I*'s
 12 resolution of a procedural due process claim. *RHA I* ruled that the six-month defense violates
 13 procedural due process guarantees by allowing a tenant to self-certify or declare a financial
 14 hardship without allowing the landlord to rebut that fact. *See RHA I*, Dkt. # 164-1 at pp. 13–14.
 15 *Accord RHA II* at pp. 19–20 (attached as Ex. 1). The Council passed, and the Mayor signed,
 16 Ordinance 126593, attached as Exhibit 2, Section 1 of which amends the six-month defense to
 17 allow the landlord to rebut a tenant's self-certification or declaration of financial hardship.

18 Nothing in that ordinance affects Plaintiffs' challenge to the six-month defense in this action.

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Respectfully submitted June 23, 2022.

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